

REMARKS

Applicants have amended independent claims 32, 33 and 34 to more precisely define and distinguish the present invention over the prior art. As currently set forth, the claims specifically set forth the providing of electronic photographic images stored in a picture memory by a photographer and said customer of said photographers. There is also provided access to an image profiler, however this is restricted only to the photographer and host of the event. The profiler provides sequencing and captioning of the stored electronic images that are displayed to the customer of said photographer. Independent claims also include a server adapted to transact remote payment information with respect to a financial institution for verifying payment of an order placed by the customer through said ordering interface. Applicants respectfully submit that the present invention as currently set forth is not taught or suggested by the prior art. The Examiner, in the Official Action, rejected claims 3-5, 7-8, 10, 14-20, 23-25, 27-28 and 30-34 under 35 USC § 103(a) as being unpatentable over Maniwa in view of Franklin et al. and further in view of Westmoreland for the reasons set forth in paragraph 19. The Examiner has also rejected claim 11 under 35 USC § 103(a) as being unpatentable over Maniwa in view of Franklin and DMW and further in view of Morag et al. for the reasons set forth in paragraph 20.

The Examiner, in responding to Applicants' prior response, states: "Maniwa clearly discloses, as previously cited in Fig. 6 and similarly Fig. 9, the images as having been formatted and accordingly given an attribute of image file {1-m} and therefore sequenced and labeled accordingly for a directory service in order to retrieve the image file, as there would be no way to retrieve the image file if it isn't labeled in some manner." Applicants have amended the claims to more clearly set forth that the image profiler first are limited to access only to the photographer and to the event host in that there is providing sequencing and captioning of the stored electronic images for display to the customers of the photographers. The reference to formatting in the Maniwa reference is not the same to which the present invention is directed. The formatting is just simply the format of the digital file for properly storing of the image. In the present invention, the captioning sequence relates to the order in which images are to be shown and the associated captioning to be displayed with the image. This is

clearly not taught or suggested in Maniwa. Further, there is no teaching or suggestion of providing restricted or limited access with regard to the profiler as taught and claimed by Applicants. Further, as previously discussed, there is no teaching or suggestion for providing a server adapted to transact remote payment and verification with a financial institution as claimed by Applicants. As Applicants have previously noted, the formatting in the '866 reference is directed to providing a format of the image that is suitable for use at the workstation. Clearly, the formatting of Maniwa is totally apart and distinct from the sequencing and captioning taught and claimed by Applicants.

While the DMW reference may disclose images with associated information, it does not teach the restricted access to the image profiler with respect to the sequence and captioning as taught and claimed by Applicants. Furthermore, Applicants respectfully submit that there is no teaching or suggestion in the prior art to combine the references as suggested by the Examiner. The CAFC stated in *In re Lee* 277 Fed 3rd 1338 (61 USPQ 2nd 1433) 2002:

“When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness ...the central question is whether there is reason to combine [the] references ... The factual inquiry whether to combine references must be thorough and searching.” *Id.* “It must be based on objective evidence of record ... Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references ... there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant ... teachings of references can be combined only if there is some suggestion or incentive to do so.”

Applicants respectfully submit there is no teaching or motivation in any of the references cited to make the combination as suggested by the Examiner. The Maniwa reference is directed to a device for scanning an image to create image data to be transmitted to a network to which the device is connected. The DMW reference is just directed to selling of images. The two are totally unrelated and there is nothing in either of the references cited that would suggest or motivate the combination of references as suggested by the Examiner. With regard to the Franklin reference, this is directed to a system method for

conducting comments over a distributed network to manage merchant and product information in an electronic shopping basket. There is no teaching or suggestion why this should be combined with either of the other two cited references as the three references are directed to three totally different and distinct technologies and areas of interest. In view of the foregoing, Applicants respectfully submit that the claims in their present form are patentably distinct over the cited prior art. In addition, the remaining claims depend at least ultimately upon the above independent claims and are therefore patentably distinct for the same reasons.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Frank Pincelli', written over a horizontal line.

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